SMYRNA PARKS AND RECREATION FACILITY USE AGREEMENT

This User Agreement made and entered into this 1st day of January 2014 by and between the Town of Smyrna Parks and Recreation Department, hereafter referred to as "the Department", and Smyrna Fastpitch League hereafter referred to as "User".

In consideration of the mutual promises and agreements considered herein, the Department and User agree as follows:

I. Purpose. The Department agrees to allow the User to use the Town of Smyrna controlled property ("Property") Smyrna, Volunteer Park for sole purpose of conducting a comprehensive girls fastpitch softball program that benefits the Smyrna community during the dates and times indicated below. User may/may not (circle one) also provide for the sale of items at the concession facility provided at the above Property.

The User agrees to comply with the terms of the User Agreement, the rules and regulations of the Smyrna Parks and Recreation Department, and applicable city, state, and Federal laws and regulations.

II. Term.

The term of this User Agreement shall be for one season beginning on January 1, 2014 and continuing until December 31, 2014. The User shall have the right to use the property during the term of the Use Agreement based on approved schedule by the league and the Parks Department and on file in the Parks Department. The User shall provide the Department with copy of its schedule request ASAP before start of practice and play so the Department can adequately prepare for facility use and to resolve any scheduling conflicts. The Parks Department reserves the right to schedule other entities into the park at its discretion. Every effort will be made to avoid conflict with league schedules. In event this is unavoidable, the Department will make every effort to provide as much advance notice as possible. The Department reserves the right to delay use of the facilities if not enough time is available to prepare, i.e. the Department reserves the right to set back the start of practice/games if the request is not received by the Department no less than 10 working days prior to start of practice/games. If SFL wishes to alter the schedule after it is submitted, the Parks Department must receive and approve any such request. Such requests should be submitted at the earliest possible opportunity. Any changes requested less than 48 hours before event are likely to be denied due to insufficient time for staff to rearrange work schedules.

III. Department Obligations.

A. The Department will maintain the playing fields for the normal games scheduled on Exhibit B.

Maintenance shall include:

1. **Irrigation Systems**
2. **Mowing of playing surfaces**

3. Field preparations (lining of game fields only)

B. The Department will maintain existing restroom facilities. This includes building repairs and maintenance for the roof, interior and exterior walls, doors, plumbing and electrical systems. It also includes providing paper and soap products and routine cleanup for the rest rooms.

C. The Department will provide building maintenance for existing concession stands.

D. The city will be responsible for providing trash receptacles and the disposal of trash and litter from such receptacles. The league is encouraged to dispose of trash in the dumpsters on an as needed basis and to replace the bags and the cleaning of restrooms as needed. Additional bags can be requested from Parks Department.

E. The Department will maintain the parking areas.

F. The Department shall conduct monthly meetings (2nd Monday, 5:30pm) to discuss maintenance & league business.

G. The Department will maintain practice sites. This shall include mowing, repairs, and emptying trash receptacles.

H. The Department will pay for utility services (water and electricity) at the Property. The Department reserves the right to require that leagues pay for their respective utility bills.

I. The Department will determine whether rain or inclement weather has made the field unusable by 3:30pm on scheduled game days. The public/coaches will be directed to www.townofsmyrna.org/parks for access to league websites/phone to get an update after 3:30pm. (Absolutely NO play will be allowed when fields are closed due to weather). The Department reserves the right to shut down the park complex if the staff feels it is necessary to do so.

J. The Department requires NYSCA Coaching Certification on all coaches, head and assistant. Unless otherwise noted, the certification is to be completed online at www.nays.org. The User will provide a list of coaches, head and assistant, to the Parks Department to ensure all are certified and background check completed as compared to the certification data base and the background check data base.

K. The Department will prepare this User Agreement in order to review and finalize in January.

IV. User Obligation

A. The User will provide any additional maintenance of the fields required beyond the normal schedule, such as additional seeding or fertilizing, but shall provide such maintenance only with prior approval of the Director of Parks and Recreation.

B. The User must submit Board Members, players, and coaches names and addresses to the Department.

Executive Board; President, Rachel Oster; Vice President, Kerri Barrett; Secretary, Julie McDonald; Treasurer, Kristi LaDuke

C. NOTE: One person, Rachel Oster, will be the direct liaison with Parks and Recreation on all matters regarding any league issues. This person will be

responsible for coordinating within their league and be in attendance at the Monthly Athletic Committee Meetings. If a change is made, it is the responsibility of the league to notify Parks and Recreation of it.

D. The User will maintain concession stands in a clean, safe and healthy condition. The User will not sell or promote the sale of any alcohol or tobacco products. The User will open the concession at their discretion on those evenings while Co-Ed Adult Softball is played at their facility in the spring. The Department expects SBL, SFL, SASL, SGSL, and any other leagues to work out which league is going to work concessions at league tournaments, where both facilities are used and inform parks of their decision.

E. The User will clean and secure all pressbox facilities and equipment on a daily basis. The User will be responsible for replacement of any damaged or lost equipment at Property during the dates of this agreement.

F. The User will make responsible efforts to maintain the parking lot, playing field, and common areas in trash free condition. The User will perform trash and litter pick up and placement into receptacles, so that the areas are in a clean and orderly state by frequent announcements and labor by User members and supporters. User is also responsible for supplies needed in the concession stand, i.e. light bulbs, soap, etc. by purchasing and replenishing them.

G. The User will provide first aid policies to all board members and coaches. The User will also supply first aid supplies and/or medical assistance required during any game, practice or activity. A first aid policy will be attached to this agreement. The first aid policy shall also be posted on the bulletin board and a first aid kit shall be placed in the concession. The User must have in place, procedures for the control of blood borne pathogens.

H. The User shall make by-laws and the most current financial reports available to anyone upon request within 72 hours. Financial statements are due to the Parks Athletics Office at the end of each spring and fall season. A bank statement is required to be submitted on a monthly basis to the Athletics Office at the monthly Athletic Committee Meeting. Additionally, 2 board members must be present at the end of the evening/day and sign off concession accounting. An annual budget meeting must be announced to Users in a timely manner and all finances must be disclosed to all User members. The following Executive Board members are designated to sign checks for their league. President, Rachel Oster; Vice President, Kerri Barrett; Treasurer, Kristi LaDuke. Any check written for any amount, must have two board member's signatures. Officers are to be elected in June. Financial statements must be in the proper format (Smyrna Parks form) from previous season before department allows registration for next season.

I. The User will attend monthly (2nd Monday, 5:30pm) Athletic Committee Meetings. Any User that accumulates three (3) unexcused absences within a calendar year shall be subject to sanctions by the Department, i.e., possible loss of field use.

J. The User shall require a Background Check form from all coaches, board members, administrators and umpires, per the town ordinance. Forms are to be turned into the Department at sign-ups. Waivers on all players and coaches are

also required at this time. Forms shall be kept in a file at the Parks Department Office. The league shall turn in insurance documentation, waivers, and coaching disclosures before practice starts, or practice or league play will not be allowed to begin. If the league knowingly allows a convicted felon to coach, administer, or umpire, then the league could possibly forfeit their rights to use the city fields until the matter is resolved. User shall also require all coaches to attain certification through NYSCA Coaching Certification.

K. The User shall report any maintenance requests to the Department in a timely manner. All maintenance requests must go to the Maintenance Coordinator. The User shall provide to the Department a list of all people that have keys to lights, gates and concession. This list may be attached to this document or on a separate sheet. The Department reserves the right to lock down any building, field, etc., if it has been determined there has been illegal use of keys and unauthorized use of park complex. The Department reserves the right to close the park if a maintenance situation cannot be resolved at any particular time.

L. The User is responsible for monitoring facilities during use. This includes all practices, games and tournaments. The User is also responsible for closing a field due to unsafe conditions once the fields are turned over to the User for play. The league must control parking at city practice areas or be subject to loss of site.

M. The User is responsible for contacting the Parks Office and/or www.townofsmyrna.org/parks web site after 3:30pm to determine if games can be played that day. The User is responsible for all field decisions made after 3:30pm due to safety and/or inclement weather. The Department reserves the right to shut down the park complex if we feel it is necessary to do so.

N. The User will not waste any utility services provided by the Department. The Department reserves the right to bill User directly for utilities if there appears to be unnecessary use of utilities.

O. Practice will be conducted for the Spring season starting Mid March at Volunteer Park and Smyrna Elementary. It is to be understood that if the league does not follow the rules at practice sites, they will possibly lose privilege of using them (& i.e. parking properly). The Parks Department reserves the right to reschedule practice fields for special events.

P. The User shall ensure there is a mechanism in effect to allow underprivileged children to participate, i.e., reduced fees. The User shall show the Department in writing how they handle this situation and what mechanism is in effect. This mechanism must also be included on the league registration form beginning with the fall season registration. The league must also limit enrollment to what the facilities can handle, with priority given to general recreation programs and Smyrna citizens.

Q. It is recommended that the User set aside funds to offset city costs of ground maintenance of fields, i.e. field enhancement; turf, grass, fertilizer, light adjustments, etc. The Department recommends $5,000 be set aside for this, but the amount may vary from league to league.

R. The User will be able to use the Smyrna Parks and Recreation Hilltop-Rosenwald Building once a month for monthly meetings at no charge.

S. The User shall give close scrutiny to and make every effort to avoid conflicts of interest.

T. Screening of Coaches. Outside of providing background checks to the Parks Department, the league shall be responsible for providing all due diligence in accepting competent coaches. All prospective coaches will be required to be screened by the national background check process at a cost of approximately $18 per coach (subject to change).

U. The User shall ensure no games are played beyond 8:00p.m. on the evening prior to school Terra Nova testing.

V. The User must get permission from the Director, Smyrna Parks and Recreation before scheduling a school or any other outside entity.

W. The User shall absolutely not have any additions to tournament requests 48 hours before an event, i.e., tents, bleachers, hookups, etc. There must be one contact person for special events and tournaments named on request form with at least two contact numbers.

X. The User shall make a request to Parks and Recreation Department in writing requesting to change affiliations, and also indicate how it will/will not affect the league operation or be detrimental to the league or city. Also, if the change is made, consideration must be taken to accommodate children affected by the change, i.e. "grandfathering" age cut-offs, or handling them on a case by case basis.

Y. It is expected that in 2014, all travel teams will pay a user fee and be required to provide a roster toe the Parks Athletics Office.

Z. It is the responsibility of the Town of Smyrna Parks Department that any programs that are subsidized by the Town of Smyrna that general surplus at the end of the year be: 1) put back into the program, 2) capital improvements to facilities and 3) or for seed money for next season.

AA. Any requests for use by local schools or any other entity must go through the Parks Department. The Parks Department reserves the right to permit school use or other outside entity use. It is the policy of the Parks Department to help local schools out when feasible. School requests will be handled on a hardship basis. Forms for requesting use on a hardship basis are available at the Parks Department. The league will be made aware of any usage permitted to the schools, by the Parks Department.

BB. Parks and Recreation must be notified in advance when the User intends to make a vendor change between Pepsi and Coca-Cola or vice versa. The league must have permission to make the change from the Parks Department.

CC. The league shall advertise to those eligible to vote, one month notice of upcoming annual elections and ensure this is done through proper advertising, web, newspapers, signage, etc.

DD. League board meetings are open to the public. The public shall not be permitted to speak unless their request is submitted one week prior to the league and approved for the agenda.

EE. All league minutes of the Executive Board, regular monthly meetings and special meetings must be turned into the Parks Department within one week of ratification of board minutes.

FF. Any real property, i.e. fixed property is property of the Town of Smyrna. By law, the Smyrna Parks Department is responsible for disposing of surplus equipment by proper procedures. The league must contact the Parks Department prior to possible disposal of equipment.

GG. The User must announce any major annual meeting or otherwise, to include annual elections at least one month prior and shall post it on the league bulletin board and by any other communication format used by the league.

HH. The Department reserves the right to charge a fee for any work done for special events and tournaments.

II. The Department must be informed by the end of February each year if the league wants to apply for help with a capital project.

JJ. If not a chartered, non-profit organization as defined by the IRS, the User shall include in their by-laws, a comment as to how they disperse their funds in the event of dissolving of the league. If the league has intentions on amending their league by-laws, the Parks Department <u>must</u> be immediately notified of the proposed changes.

KK. The Parks Department must be informed immediately when the league is bidding on or considering an additional tournament, i.e. 3rd Tournament. (This, by no means guarantees approval of this extra tournament). If the extra tournament is approved, there will most likely be user fees imposed on the league.

LL. The league shall ensure the Parents Code of Ethics is signed by each parent registering their child and the original copy held by the league.

MM. Monday night Co-Ed Adult League Softball will be played in the spring season at Lee Victory Recreation Park. Adult League shall ensure Monday night Co-Ed scheduling is properly done and coordinated with SBL and others concerned.

NN. The league shall ensure admission/gate prices at local tournaments are held to a minimum and are deemed fair and reasonable by the Parks Department. Fees are subject to Parks Department approval.

OO. Adult League practice @Volunteer Park is likely in the Spring 2014. The Department will work Adults around SGSL.

PP. All incident reports must be submitted to the Parks Department within 48 hours of occurrence. This includes any mishaps, behavioral problems, injuries, removal of spectators, coaches, officials, players, administrators, accidents, disruption or any report the department may deem necessary.

QQ. Additional leagues will be given game dates on open dates at Volunteer Park not to interfere with league play.

RR. The league shall ensure that if it is necessary to acquire additional fields outside the Smyrna Parks system due to unforeseen circumstances, they notify the department prior to securing them.

SS. The league shall ensure that if it is necessary to acquire additional fields outside the Smyrna Parks system due to unforeseen circumstances, that they notify the department prior to securing them.

II. <u>User Representations</u>

A. User represents that it is a non-profit or not for profit corporation as defined by the Internal Revenue Code.
B. User covenants that it will not discriminate against any person, including, but not limited to sex, race, religion, natural origin, or disability, and that its programs and services will comply with the Americans with Disabilities Act. User will have allowances for applicants that are financially unable to participate in programs.
C. User shall maintain a liability insurance policy with a minimum $1,000,000 limit during the term of the User Agreement. Insurance policy must list the Town of Smyrna as an additional insured. A certificate of insurance must be given to the Department prior to the beginning of the season.
D. The User accepts the property as suitable for the purposes of the Use Agreement. User will protect and maintain the property, except for maintenance to be performed by the Department. User will pay the Town for any damage to the property during the term of the Use Agreement as determined by the Department based on pre and post-season inspections.

III. Policies

A. Signage
The User shall post no signs on the property without prior approval of the Department.

B. Vendors. Vendors will not be allowed to sell any product or service on Property without prior approval from the Director, Parks and Recreation. If approved, vendor must have permit issued by the Town of Smyrna and signed by the Director, Parks and Recreation

C. Structures.
The User shall not alter or modify any existing building or structure nor build or locate any new building or structure on the Property without prior written approval of the Department and the approval of all appropriate agencies.

D. Allocation of Facilities.
1. Smyrna residents shall have priority for all programs and use of facilities.
2. In the event of facility limitations, as determined by staff, the following priority will be utilized.
   a. Recreation youth programs shall have priority over recreation adult programs.
   b. Recreation adults have second priority.
   c. Competitive youth programs shall have priority over competitive adult programs.
   d. Competitive adults have fourth priority.
   e. School school sports have fifth priority for usage on a hardship basis.
   f. The Director of Parks and Recreation will determine other schedule conflicts.

E. Termination of Use Agreement

This Use Agreement may not be assigned or transferred. The Department shall have sole discretion to terminate the Use Agreement. Termination may result from User's failure to abide by the terms set forth in this agreement. In the event of a breach of the Use Agreement, the Department shall try, if possible, to give the User an opportunity to timely correct the default.

B. Powers

The Director of Parks and Recreation has the power to remove any organization, or individual not abiding by this agreement or for conduct deemed inappropriate to the citizens of Smyrna. The Department may require the league to hire an off-duty police officer for tournaments or any games if it is determined the need exists.

C. Audit

The Department reserves the right to perform an audit on any organization or league at any time.

D. Amendment

This Use Agreement constitutes the entire agreement between the Town of Smyrna and the User. The Use Agreement can only be amended by a written amendment executed by the Department and User.

E. By-laws

The Department prior to the institution of this agreement must approve by-laws and constitution of leagues.

F. Keys

User must pay for any keys replaced. User must submit names of individuals issued keys. User must turn in keys to facilities within 30 days of end of this agreement. Cost to replace keys - $3 each. Cost to change tumblers - $10 each.

In witness whereof, Smyrna Parks and Recreation Department and "User" have executed this Use Agreement on the day and date first written above.

SMRYNA PARKS AND RECREATION DEPARTMENT

By: Monty R. Simmer

By: _____

By: _____

Users:

By: Rachel L. Oster

By: _____

By: Cindy Daniels

THE USERS AGREEMENT MUST BE UPDATED AND AMENDED EACH YEAR.

THE PARKS AND RECREATION DEPARTMENT HAS THE POWER TO REVOKE THE PRIVILEGES OF ANYONE FAILING TO COMPLY WITH THE SIGNED AGREEMENT.